REMARKS

This paper is in response to the non-Final Office Action of January 17, 2007. Claims 1-3, 5-17, 19-26, and 28-38 are pending in this application. Claims 30 and 33 have been amended. The amended claims add no new matter and is fully supported by the specification. The Applicant respectfully submits that pending claims 1-3, 5-17, 19-26, and 28-38 are in condition for allowance in view of the Amendment and remarks provided below.

Statement of Substance of Interview

This Amendment and response has been prepared in view of the telephone conference with Namrata Boveja (Examiner) and Retta Yehdega (Primary Examiner) on April 20, 2007 about the merits of the prior art references being asserted against the Applicant's claims. Mainly, that the Applicant claims a centralized poll server to direct various polls to affiliate websites to be presented to individuals who visit the affiliated website. Wherein, the polls are archived in the centralized storage server and each are assigned an audience rating. When an individual visits one of the affiliated websites, the centralized poll server performs a search of the centralized storage server and delivers an archived poll that has an audience rating that does not exceed the audience rating level of the affiliated website. No agreement was reached as to whether Hamlin et al. (United States Patent No. 6,477,504) anticipates the independent claims as the Examiners claimed that they did not have a thorough understanding of the Applicant's claimed invention prior to the call.

The Examiners averred that given their new understanding of the claimed invention, they would review the appropriateness of the constructive restriction requirement and the anticipation of the Applicant's claims under Hamlin et al.

Constructive Restriction Requirement

Paragraph 6 of the Action provides a constructive restriction of claims 33-36 for allegedly being directed towards a non-elected invention. The Applicant respectfully requests reconsideration under 37 C.F.R. 1.143 (See MPEP 821.03).

Contrary to the position taken in the Action, Group I (claims 1-32, 37, and 38) and Group II (claims 33-36) are not subcombinations that are usable together in a single combination. They are simply two differently claimed variations of the same process for providing a centralized polling environment (i.e., same combination). Group I and Group II claims cannot be logically combined to form a single combination as they share many of the same limitations. Therefore, the Applicant respectfully submits that MPEP 806.05(d) is the improper standard to apply to the Applicant's claims for restriction requirement determination purposes.

The Group I and Group II claims are more properly analyzed, for restriction purposes, under MPEP 806.05(j), which outlines the **Examiner's burden to support a requirement for restriction between two or more related process inventions** by requiring the Examiner to show "both two-way distinctiveness and reasons for insisting on restriction are necessary." Under MPEP 806.05(j), inventions are distinct if "(A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; (B) the inventions as claimed are not obvious variants; and (C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect." It is clear that the Group I and Group II claims do overlap in scope as they both claim archiving polls "in a storage area", selecting polls for placement in a webpage, delivering the polls to a user to permit viewing, and updating the profile of the user based on the interaction. For the same reasons, Group I claims and Group II

claims cannot be viewed as mutually exclusive claims. Additionally, it is clear that the Group I claims and Group II claims, in particular claims 1 and 33, are obvious variants of one another as they both claim the same basic invention with differing levels of detail.

Furthermore, under MPEP 806.05(c), the PTO stated the reasons for insisting on restriction are ">there would be **a serious search burden as evidenced by separate classification, status, or field of search**". None of those factors come into play here with the Group I and Group II claims as they do not warrant separate classification, status, or field of search during the course of examination. For at least the reasons discussed above, the Applicant respectfully requests that claims 33-36 be reinstated for consideration.

Claim Rejections Under §112

Paragraph 7 of the Action rejects claims 1, 3, 15, 17, 29, and 31 for allegedly failing to comply with the written description requirement. Specifically, the Action avers that "there is no support for the newly added claim limitation of said archiving step further comprising seeking and obtaining approval to archive based on said audience rating of each of said polls." In view of the arguments presented below, the Applicant respectfully requests that this rejection be withdrawn.

As a preliminary matter, the Applicant respectfully submits that claims 1 and 15 do not include the above stated limitation. In particular, neither claims include language that the archiving step requires "approval to archive based on said audience rating" of the polls. Accordingly, this rejection should be withdrawn with respect to claims 1 and 15.

As for claims 3, 17, 29 and 31, the Applicant respectfully calls attention to the first paragraph on page 15 of the Applicant's specification, where it clearly teaches that once a poll has been created or modified, it is "submitted for approval" to "ensure that every piece of the created content is appropriate and categorized correctly" and then if approved "the poll is placed into the System Content Provider poll library" (See Applicant's Specification, page 15, lines 5-23). That is, anytime a poll is newly created or modified it must be submitted for approval based on whether the polls have been given a correct content (i.e., audience) rating before the polls are allowed to be archived.

For at least the above reasons, the Applicant respectfully requests that this rejection be withdrawn for claims 1, 3, 15, 17, 29 and 31.

Paragraph 7 also rejects claim 30 for allegedly failing to particularly point out what Applicant views as the invention. Applicant has amended claim 30 in a manner that should be clear, although Applicant points out that the Examiner apparently had little trouble discerning what was meant, and that the focus of claim 30 is commonly used. Nonetheless, Applicant respectfully requests withdrawal of the rejection for the reasons stated above.

Claim Rejections Under § 102:

The Examiner rejected claims 1-38 under U.S.C. § 102(e) as being anticipated by Hamlin et al. In light of the arguments contained herein and in view of the Applicant's telephonic interview with the Examiner, the Applicant respectfully requests that this rejection be withdrawn.

In contrast with claims 1, 15, and 31 Hamlin et al. fails to teach or suggest "determining an audience rating level of an affiliated website" and "searching said archived polls to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls and that **do not exceed said**

audience rating level of said affiliated website" (See Applicant's Claims). Specifically, Hamlin et al. merely teaches the selection of a "target group of network users" for delivering the polls (i.e., surveys) to (See Hamlin et al., Column 9, lines 36-42). That is, assigning each of the polls to a specific target group and then statically mapping each target group to specific websites "based on the target group information that was previously supplied by the client" (See Hamlin et al., Column 11, lines 55-67). This operates differently from assigning an audience rating to a poll because if you assign each poll to a discrete target audience group, you are limited to delivering the poll to just those sites that are statically mapped to the specific target group. Whereas, in Applicant's claimed invention, an audience rating is assigned to each poll, stored in a central location, and then selectively delivered to any website that has an audience rating level that matches or is higher than the audience rating of the poll. For example, in the Applicant's claimed invention, "PG-rated" polls can be delivered to all websites that have a "PG" level rating and above (e.g., PG-13, R, etc.) **NOT** just websites having a "PG" level rating. These are mutually exclusive modes of operation and the latter has much broader and more flexible application than the former.

Moreover, further in contrast with claims 1 and 15, Hamlin et al. fails to teach or suggest archiving the polls in a storage area based on the audience rating of the poll. Hamlin et al. is entirely silent as to this limitation. The disclosure cited in Hamlin et al. is directed towards "a unique storage unit is used to store the results for a particular survey" (See Hamlin et al., column 11, lines 12-50). This simply does not teach the storage of a poll based on its audience rating as it teaches only that the responses to the survey are stored in the same storage unit location as the survey.

For at least the above reasons, the Applicant respectfully requests that this rejection of claims 1, 15 and 31 be withdrawn. Claims 2, 3, 5-14, 16, 17, 19-26, 28, and 32 depend directly or indirectly off of independent claims 1, 15, and 31. Accordingly, the Applicant respectfully submits that claims 1-3, 5-15, 16, 17, 19-26, 28, 31, and 32 are now in condition for allowance

In contrast with claim 29, Hamlin et al. fails to teach or suggest "seeking and obtaining approval to archive based on an audience rating of each of said polls" (See Applicant's Claims). Specifically, Hamlin et al. is completely silent as to any approval step (based on the audience rating of the poll) that must be traversed prior to the archiving of a poll.

For at least the above reasons, the Applicant respectfully requests that this rejection of claim 29 be withdrawn. Claim 30 depends directly off of independent claim 29. Accordingly, the Applicant respectfully submits that claims 29 and 30 are in condition for allowance.

In contrast with claim 33, as amended herein, Hamlin et al. fails to teach or suggest "selecting said first poll from a plurality of archived polls for placement in a first web page corresponding to a first affiliate, based on….**whether said audience rating of said first poll exceeds an audience rating level of said first affiliate**" (See Applicant's Claims). Specifically, for the same reasons as those discussed above, Hamlin et al. is completely silent as to any selection of polls to deliver to an affiliate based on whether the poll exceeds an audience rating level of the affiliate.

For at least the above reasons, the Applicant respectfully requests that this rejection be withdrawn with respects to claim 33. Claims 34-38 depend directly or indirectly off of independent claim 33. Accordingly, the Applicant respectfully submits that claims 33-38 are in condition for allowance.

Claim Rejections Under § 103:

The Examiner rejected claims 10, 24, 37, and 38 under U.S.C. § 103(a) as being unpatentable over Hamlin et al. in view of Boe et al. (United States Patent No. 6,236,975). In light of the arguments contained herein, the Applicant respectfully requests that this rejection be withdrawn.

Claim 10 depends directly off of claim 1 and claim 24 depends indirectly off of claim 15. For the same reasons discussed above, Hamlin et al. fails to teach or suggest all the limitations of independent claims 1 and 15. Boe et al. fails to cure the deficiencies Hamlin et al. as it is also silent as to "determining an audience rating level of an affiliated website" and "searching said archived polls to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls and that **do not exceed said audience rating level of said affiliated website**" (See Applicant's Claims). Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 10 and 24.

Claims 37 and 38 depend directly or indirectly off of claim 33. For the same reasons discussed above, Hamlin et al. fails to teach or suggest all the limitations of independent claim 33. Boe et al. fails to cure the deficiencies Hamlin et al. as it is also silent as to "selecting said first poll from a plurality of archived polls for placement in a first web page corresponding to a first affiliate, based on….**whether said audience rating of said first poll exceeds an audience rating level of said first affiliate**" (See Applicant's Claims). Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 37 and 38.

CONCLUSION

Applicant believes that given the above Amendment and remarks, the claims are now in condition for allowance and such is respectfully requested.

The Commissioner is hereby authorized to charge the fees for the Extension of Time and any additional fees or credit any over payments due with this response to deposit account 13-0480 referencing attorney docket number 67175120-001100.

Respectfully submitted,

/RogerCKuan/

Roger C. Kuan
Reg. No. 56,558

Date: May 16, 2007

Baker & McKenzie LLP
2001 Ross Avenue, Suite 2300
Dallas, Texas 75201
Telephone (858) 523-6238
Facsimile (214) 978-3099

SDODMS1/674685.3